

AMENDMENTS TO RULE 34

RULE 34 is amended as follows:

RULE 34. Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes

(a) Scope. ***

(b) Procedure. [~~The request may, without leave of court, be served upon the plaintiff after filing of the complaint and upon any other party with or after service of the summons and complaint upon that party.~~]The request shall set forth, **either by individual item or by category**, the items to be inspected [~~either by individual item or by category,~~]and describe each [~~item and category~~]with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. **Without leave of court or written stipulation, a request may not be served before the time specified in Rule 26(d).**

The party upon whom the request is served shall serve a written response within 30 days after the service of the request[~~, except that a defendant may serve a response within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time~~]. **A shorter or longer time may be directed by the court or, in the absence of such an order, agreed to in writing by the parties, subject to Rule 29.** The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified **and inspection permitted of the remaining parts**. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) Persons Not Parties. ***

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; July 28, 1988, eff. Nov. 1, 1988; Sept. 25, 1992, eff. Jan. 1, 1993; **_____, 2000, eff. _____,**

2000.)

ADVISORY COMMITTEE NOTE

For reasons discussed under Rule 26(d), the Committee recommends tying the timing of the service of the request to produce to the Rule 26(f) conference, rather than to service or filing of the complaint.

Fed. R. Civ. P. 34(b) requires a response to the request for documents and things, etc., within 30 days after the service of the request, absent a written agreement by the parties to a longer or shorter time (subject to Rule 29). Current USCIT R. 34(b) requires a response within 30 days after service of the request, "except that a defendant may serve a response within 45 days after service of the summons and complaint upon that defendant." For reasons given when discussing Rule 33(b), the Committee recommends adopting Fed. R. Civ. P. 34(b).

Fed. R. Civ. P. 34(b) requires that if a request for production is objectionable only in part, inspection must be granted as to the unobjectionable part. This is consistent with a similar provision in Rule 33. The Committee has recommended conforming to Rule 33 and recommends adopting the similar provision in Rule 34(b).